

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

14-MD-2543 (JMF)

This Document Relates To:

Dukes v. General Motors LLC, 19-CV-11922

Hancock v. General Motors LLC, 18-CV-1019

Hemingway v. General Motors LLC, 19-CV-6528

Taylor v. General Motors LLC, 17-CV-6155

Tenley v. General Motors LLC, 20-CV-3307
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ORDER OF DISMISSAL

JESSE M. FURMAN, United States District Judge:

On July 29, 2020, New GM filed a motion to dismiss, without prejudice, the claims of several personal injury and wrongful death plaintiffs identified in Exhibit A (the “Affected Plaintiffs”) who had allegedly failed to submit substantially complete plaintiff fact sheets (“PFSs”) or document productions as required by Order No. 25, ECF No. 422, Order No. 108, ECF No. 3115; and Order No. 148, ECF No. 5366. *See* ECF No. 8072.¹ Pursuant to an extension granted by the Court, *see* ECF No. 8097, Affected Plaintiffs had until August 24, 2020 to file responses either certifying submission of a completed PFS or document productions or opposing New GM’s motion for other reasons. On August 31, 2020, New GM filed a reply in support of their motion to dismiss, in which they indicated that they were withdrawing the motion as to Plaintiffs Jennifer Dukes, Matthew Chase Taylor, and William Tenley because each of these Plaintiffs had since agreed to settle their claims against New GM. *See* ECF No. 8129.

¹ All docket references are to 14-MD-2543 unless otherwise noted.

In contrast, New GM informed the Court that “Plaintiff Marcus Hemingway (on behalf of Kenya Robinson) ha[d] not provided a revised PFS or additional Order 108 Documents. Counsel for Mr. Hemingway did not respond to repeated requests from counsel for New GM to meet and confer regarding Mr. Hemingway’s ongoing discovery deficiencies.” *Id.* at 2. New GM also identified ongoing discovery deficiencies as to Plaintiffs Tia Maynard and April Hollon as next friends of T.H., L.H., C.N., and R.N (the “*Hancock* Plaintiffs”), *see id.*, notwithstanding the *Hancock* Plaintiffs’ filing of an opposition on July 30, 2020 representing that they were in compliance with their discovery obligations, *see* 18-CV-1019, ECF No. 111.

On September 14, 2020, the *Hancock* Plaintiffs filed a further response to New GM’s motion to dismiss, asserting that “[t]here is no outstanding discovery for T.H. and L.H.,” but acknowledging that legal guardianship of Plaintiffs C.N. and R.N. had shifted and requesting more time to obtain the cooperation of C.N. and R.N.’s biological father in order to cure their remaining discovery deficiencies. 18-CV-1019, ECF No. 119 at 1-2. In subsequent filings, the *Hancock* Plaintiffs’ indicated that the biological father’s cooperation had been secured, but that still more time was required to meet their discovery obligations. *See* 18-CV-1019, ECF Nos. 120, 123.

In the meantime, on August 19, 2020, New GM filed a notice identifying the *Hancock* Plaintiffs’ claims as barred by Ohio’s statute of repose. *See* ECF No. 8118. On September 16, 2020, the *Hancock* Plaintiffs filed a response to New GM’s notice, contending that their claims are not barred by the statute of repose, and stating an intention to move to reinstate Plaintiff Megan Hancock’s claims. *See* 18-CV-1019, ECF No. 121; *see also* 18-CV-1019, ECF No. 86 (dismissing Megan Hancock with prejudice).

On September 24, 2020, the Court conducted a telephone conference on the record with the *Hancock* Plaintiffs and New GM to resolve the path forward for their claims. As discussed, and for the reasons stated, in that conference, New GM's motion to dismiss the *Hancock* Plaintiffs is DENIED without prejudice to renewal within **two weeks of the Court's resolution of New GM's forthcoming motion to dismiss based on Ohio's statute of repose**. The parties are urged, however, to resolve any remaining discovery deficiencies while the statute of repose issue is litigated. Further, no later than today, **September 25, 2020**, the *Hancock* Plaintiffs and New GM shall submit a joint letter proposing a briefing schedule for New GM's anticipated motion to dismiss on statute of repose grounds.

In contrast to the *Hancock* Plaintiffs, Plaintiff Hemingway has not filed any response to New GM's motion identifying outstanding discovery deficiencies. Accordingly, in light of his continued failure to submit substantially complete PFSs or document productions as required by Order No. 25, Order No. 108, and Order No. 148, Plaintiff Hemingway's claims are hereby DISMISSED without prejudice. Should Plaintiff Hemingway submit all required documentation within the next thirty days, or otherwise contest this dismissal, he may move to vacate the dismissal **within 30 days of the date of this order**, pursuant to Paragraph 25 of Order No. 25.

The Clerk of Court is directed to terminate:

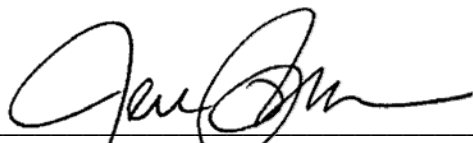
1. 14-MD-2543, ECF No. 8072;
2. 19-CV-11922, ECF No. 37;
3. 18-CV-1019, ECF No. 110;
4. 18-CV-1019, ECF No. 120;
5. 19-CV-6528, ECF No. 35;
6. 17-CV-6155, ECF No. 94;

7. 20-CV-3307, ECF No. 16.

Because (1) Plaintiff Hemingway still has an opportunity to vacate his dismissal, (2) the motion to dismiss was withdrawn as to Plaintiffs Dukes, Taylor and Tenley, and (3) the motion to dismiss was denied without prejudice as to the *Hancock* Plaintiffs, the Clerk of Court is directed *not* to terminate the Affected Plaintiffs or to close their cases.

SO ORDERED.

Dated: September 25, 2020
New York, New York



JESSE M. FURMAN
United States District Judge

EXHIBIT A

EXHIBIT A

Name	Cause No.
Dukes, Jennifer	<i>Dukes v. General Motors LLC</i> , 19-CV-11922
Hemingway, Marcus (OBO Kenya Robinson)	<i>Hemingway v. General Motors LLC</i> , 1:19-CV-6528
Hollon, April and Maynard, Tia (NF L.H.)	<i>Hancock v. General Motors LLC</i> , 1:18-CV-1019
Hollon, April and Maynard, Tia (NF T.H.)	<i>Hancock v. General Motors LLC</i> , 1:18-CV-1019
Hollon, April and Maynard, Tia (NF C.N.)	<i>Hancock v. General Motors LLC</i> , 1:18-CV-1019
Hollon, April and Maynard, Tia (NF R.N.)	<i>Hancock v. General Motors LLC</i> , 1:18-CV-1019
Taylor, Matthew Chase	<i>Taylor v. General Motors LLC</i> , 1:17-CV-6155
Tenley, William	<i>Tenley v. General Motors LLC</i> , 1:20-CV-3307